

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Mann, et al.

Serial No: 10/044,989

Filed: January 15, 2002

For: INGRESS PROCESSING
OPTIMIZATION VIA TRAFFIC
CLASSIFICATION AND GROUPING

) Art Unit: 2182

) Examiner: KIM, HAROLD J.

) I hereby certify that this correspondence is
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) Mark R. Kendrick, Reg. No. 48,468

) Name

) Mark R. Kendrick 04/06/2004
) Signature Date

**ELECTION IN RESPONSE
TO RESTRICTION REQUIREMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Examiner Huynh:

In response to the restriction requirement under 35 U.S.C. § 121 set forth in the March 25, 2004 Restriction / Election Requirement, please consider the election and remarks.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,989	01/15/2002	Eric K. Mann	P 276927 P12814	2723
27496 7590 03/25/2004 PILLSBURY WINTHROP LLP 725 S. FIGUEROA STREET SUITE 2800 LOS ANGELES, CA 90017			EXAMINER KIM, HAROLD J	
			ART UNIT 2182	PAPER NUMBER 3
DATE MAILED: 03/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED
PILLSBURY WINTHROP LLP/LA

MAR 30 2004

CL# 081674 MT# 0276927
ATTY(S) INTEL
DUE: APRIL 25, 2004 - RESTRICTION REQUIREMENT
DKT BY (1) MSG (2)

SK

Office Action Summary

Application No.

10/044,989

Applicant(s)

ERIC ET AL

Examiner

Harold Kim

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2002.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-32 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

RESTRICTION

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-20 and 25-32, drawn to transmission of a single message having multiple packets, classified in class 370, subclass 473
- II. Claims 21-22, drawn to data flow control, classified in class 370, subclass 229. Transmission
- III. Claims 23-24, drawn to computer network monitoring, classified in class 709, subclass 224. Reception

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the subcombination(s) II and III is/are different embodiment(s) separately usable from the combination of invention I.

The subcombination of Invention II has separate utility such as a transfer scheduler.

The subcombination of Invention III has separate utility such as a notification handler.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the search for invention I is not required for invention II or III, restriction for examination purpose as indicated is proper.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The centralized fax number is 703 872-9306.

The centralized hand carry paper drop off location is:

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03


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Any inquiry of a general nature or relating to the status of this application should be directed to the technology center receptionist whose telephone number is (703) 306-5631.

Direct any inquiries concerning drawing review to the Drawing Review Branch (703) 305-8404.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harold Kim whose telephone number is (703) 305-1948. The examiner can normally be reached on Monday-Thursday 6 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (703) 308-3301.


Harold J. Kim
Patent Examiner
March 21, 2004/HK


REHANA PERVEEN
PRIMARY EXAMINER